

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 90-425-E - ORDER NO. 91-418 ✓

MAY 16, 1991

IN RE: Generic Proceeding Concerning     )  
      the Confidentiality of                ) ORDER  
      Coal Contracts                        )

This matter is before the Public Service Commission of South Carolina (the Commission) on the Petitions for Rehearing or Reconsideration of Order No. 91-272 filed by South Carolina Electric and Gas Company (SCE&G), Carolina Power & Light Company (CP&L), Duke Power Company (Duke), and CSX Transportation, Inc. (CSX). This matter is also before the Commission on the Consumer Advocate for the State of South Carolina's (the Consumer Advocate's) Petition for Reconsideration and/or Clarification of the same Order. See, S.C. Code Ann. §58-27-2150(1976) and 26 S.C. Regs. 103-881 (Supp. 1990).

After fully considering the Petitions submitted by SCE&G, CP&L, Duke, CSX, and the Consumer Advocate, the applicable law, and the record in this proceeding, the Commission denies the Petitions for Rehearing or Reconsideration. The Commission, however, grants the Consumer Advocate's Petition for Clarification as follows:


1. In concluding that "Attorneys for the Consumer Advocate shall hold the [coal supply and railroad transportation] contracts

in trust," this Commission intended to establish a fiduciary relationship between attorneys for the Consumer Advocate, his consultants, and the jurisdictional electric utilities. In creating this trust, the Commission specifically intended to establish a fiduciary relationship with respect to the coal supply and railroad transportation agreements which would subject attorneys for the Consumer Advocate and his consultants to an equitable duty to use the contracts solely for the benefit of the consumer of the State of South Carolina. Black's Law Dictionary, 1352 (5th ed. 1979).


2. At his option, the Consumer Advocate may decide if he prefers to review all future coal supply and railroad transportation agreements in accordance with the stipulations of this Order and Order No. 91-272 or whether he desires to review the contracts by signing a confidentiality agreement.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)